

No. 78-809

Supreme Court, U. S.

FILED

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MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1978

VENOLA WALTON, PLAINTIFF, APPELLANT

v.

SMALL BUSINESS ADMINISTRATION

*ON APPEAL FROM THE UNITED STATES COURT
OF APPEALS FOR THE SECOND CIRCUIT*

OPPOSING BRIEF

VENOLA WALTON
Plaintiff - Appellant, Pro se
539 W. 148th Street
New York, N.Y. 10031

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OPPOSING BRIEF

The appellant opposes the appellee's motion to dismiss.

"Treating my jurisdictional statement as a petition for a writ of certiorari, the court should deny the petition."

The appellant asserts that this jurisdictional statement should not be treated as a petition for a writ of certiorari, but as a direct appeal.

The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by Title 28 U.S.C. 1252. Under this section, there are three prerequisites to the right to invoke the direct appeal provision of U.S.C. 1252:

1. The case must be a "civil action, suit, or pro-

ceeding." . . . and U.S.C. 1252 is not limited to actions governed by the Federal Rules of Civil Procedure.

2. The case must be one "to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party."

3. The lower court judgment must be against the validity of an act of congress. If the decision is in favor of the constitutionality of the act, no direct appeal to the Supreme Court lies under U.S.C. 1252. But the decision adverse to constitutionality may relate only to the application of the statute to particular facts

In my jurisdictional statement and appendices, I have provided this court with substantial evidence to prove that this case should be deemed important enough to warrant direct appeal to the Supreme Court.

The Defendant, stated in his motion on Page 2, second paragraph, that after my loan was denied in June, 1975, I filed this suit, in the United States District Court. That is incorrect. I first filed a complaint with Mr. Thomas S. Kleppe, Administrator, Small Business Administration, Washington, D.C.

See (J.S. App. 1a-21a) However, there is a mixup in these letters. Letters from (J. S. App. 16a-20a) are not in the proper sequence, and I beg the court to allow me to state their proper sequence, so the court may clearly understand the administrative agency's disposition of my complaint.

The letter at (J. S. App. 18a-20a) should be at (J. S. App. 16a-18a) and the letter at (J. S. App.

16a) should be a (J. S. App. 19a) and the letter at (J. S. App. 17a) should be at (J. S. App. 20a). And, of course, (J. S. App. 21a) is in its proper place.

These letters will prove to the court that it was after the S.B.A. Administrative Office findings, that this suit was filed in The United States District Court.

The Defendant asserts, that my original complaint did not make clear that my Tort claim related to the 1965 loan, thus making it appropriate to amend its answer to assert the statute of limitation. This can't possibly be true. My complaint, filed in all instances has been the same, perhaps more detailed in respondings.

The appellant, respectfully asks this court to review my original complaint, (J. S. App. 45a). I further ask this court to carefully review all of my jurisdictional statements and my appendices and review this case by direct Appeal.

Respectfully submitted,

Venola Walton, Appellant, Pro se

February 7th, 1979